

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

STIPULATION RE DISMISSAL,
JURISDICTION AND VENUE

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dismiss in the federal court action, Case No. C0802324 BZ, pursuant to Federal Rules of Civil Procedure, Rules 12(b)(1) for lack of subject matter jurisdiction, or in the alternative Rule 12(b)(6) for federal preemption as to the third cause of action and uncertainty as to the fourth cause of action;

NOW, THEREFORE, it is hereby stipulated by the parties, by and through their counsel of record:

1. MONTANA shall file with the U.S. District Court for the Northern District of California a dismissal without prejudice of his claims brought in Case No. C0802324 BZ;

2. MOSES and HERITAGE shall be subject to the jurisdiction of the Superior Court of the State of California in any cross-complaint filed by MONTANA in Case No. C08-01705;

3. Venue for any cross-complaint brought by MONTANA against MOSES and HERITAGE shall be in the Superior Court of the State of California, County of Contra Costa;

4. Notwithstanding the above, this stipulation is not a waiver of any other rights, remedies, claims or defenses of MONTANA, MOSES, or HERITAGE, each of which is hereby expressly reserved.

IT IS SO STIPULATED.

DATED: July 22, 2008

MEZZETTI LAW FIRM, INC.

BY

ROBERT L. MEZZETTI II
Attorneys for JOSEPH C. MONTANA JR.

DATED: July 22, 2008

DREIER STEIN KAHAN BROWNE WOODS
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BY

Stanton L. Stein
Attorneys for KIM MOSES and HERITAGE
AUCTION, INC.